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Paul McMahan

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MOORE & VAN ALLEN, PLLC For IBM
P.O. Box 13706
Research Triangle Park, NC 27709

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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/710,913
Filing Date: August 12, 2004
Appellant(s): MCMAHAN ET AL.

Charles L. Moore
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 18 March 2010 appealing from the Office action mailed 30 September 2009.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The following is a list of claims that are rejected and pending in the application:

1-2, 5-16, 20-21 and 40-56

(4) Status of Amendments After Final

The examiner has no comment on the appellant's statement of the status of amendments after final rejection contained in the brief.

(5) Summary of Claimed Subject Matter

The examiner has no comment on the summary of claimed subject matter contained in the brief.

(6) Grounds of Rejection to be Reviewed on Appeal

The examiner has no comment on the appellant's statement of the grounds of rejection to be reviewed on appeal. Every ground of rejection set forth in the Office action from which the appeal is taken (as modified by any advisory actions) is being maintained by the examiner except for the grounds of rejection (if any) listed under the subheading "WITHDRAWN REJECTIONS." New grounds of rejection (if any) are provided under the subheading "NEW GROUNDS OF REJECTION."

NEW GROUND(S) OF REJECTION

Claims 52-56 stands finally rejected under 35 U.S.C. § 101 because the claimed invention is directed to non-statutory subject matter.

(7) Claims Appendix

The examiner has no comment on the copy of the appealed claims contained in the Appendix to the appellant's brief.

(8) Evidence Relied Upon

Brandenberg et al.	20030063072	04-2001
Erb et al.	20040142703	10-2003
Brown et al.	20030055908	09-2001
Horvitz et al.	20050132014	06-2004
Kirkland et al.	20050149622	01-2004
Brewer et al.	5611040	04-1995
Asokan	20050220079	03-2004
Balasuriya et al.	20050245240	04-2004
Horvitz et al.	20050084082	06-2004
Savage et al.	20010009014	05-2001
Suorsa et al.	20020156831	04-2001

(9) Grounds of Rejection

The following ground(s) of rejection are applicable to the appealed claims:

Claims 52-56 are rejected under 35 USC 101 since the claims are directed to non-statutory subject matter. Claims 38-46 recites a 'computer readable storage medium' which appear to cover both transitory and non-transitory embodiments. The United States Patent and Trademark Office (USPTO) is required to give claims their broadest reasonable interpretation consistent with the specification during proceedings before the USPTO. *See In re Zletz*, 893 F.2d 319 (Fed. Cir. 1989) (during patent examination the pending claims must be interpreted as broadly as their terms

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reasonably allow). The broadest reasonable interpretation of a claim drawn to a computer readable medium (also called machine readable medium and other such variations) typically covers forms of non-transitory tangible media and transitory propagating signals *per se* in view of the ordinary and customary meaning of computer readable media, particularly when the specification is silent. See MPEP 2111.01.

When the broadest reasonable interpretation of a claim covers a signal *per se*, the claim must be rejected under 35 U.S.C. § 101 as covering non-statutory subject matter. See *In re Nuijten*, 500 F.3d 1346, 1356-57 (Fed. Cir. 2007) (transitory embodiments are not directed to statutory subject matter) and *Interim Examination Instructions for Evaluating Subject Matter Eligibility Under 35 U.S.C. § 101*, Aug. 24, 2009; p. 2.

The Examiner suggests that the Applicant add the limitation “non-transitory” to the ‘computer readable storage medium’ as recited in the claim in order to properly render the claim in statutory form in view of their broadest reasonable interpretation in light of the originally filed specification. The Examiner also suggests that the specification may be amended to include the term “non-transitory” to the “computer-readable storage medium” to avoid a potential objection to the specification for a lack of antecedent basis of the claimed terminology.

Claims 1, 5, 10, 16, 40, 43-44, 46-47 and 51-52 are rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) and in further view of Horvitz et al. (US 20050132014 A1).

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Consider claims 1, 5 as applied to claim 1, 10 as applied to claim 1, 16, 40, 43 as applied to claim 40, 47, and 52. Brandenburg et al. discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests ((“Because of the digital nature of the network, there exists a need to represent realworld information, such as that described above in section 2, as digital content that a computer can store, manipulate and transmit. Information can be represented as digital content in many different textual and graphical forms. For example, a restaurant establishment may publish its address and times during which the establishment is open to patrons in a simple textual format or by generating graphical advertisements for potential patrons to see. People may wish to make their context information available in a textual format and even a picture accessible in a graphical format. Communications such as instant messages and e-mail are typically represented in a textual format. Events such as concerts and movies are typically represented in audio or video formats. The network platform is content-centric, in that it provides a context-based vehicle for routing, packaging, presenting, and interacting with content. The network platform utilizes an expanded definition of content that treats (1) everything that is displayed on, or potentially displayed on, the screen; and (2) user requests as items of content. This content-centric perspective enables a wide variety of things, all considered content items by the platform to be treated by the system in the same uniform, but flexible, way. In essence this approach creates an organic system populated by content items that are treated and behave as living

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organisms. In this system content items can self-route and self-organize. This approach provides a unique and elegant layering between content presentation mechanisms and content delivery, packaging, and scheduling mechanisms.”) paragraphs 0300-0301 (“3.A.1.a. Meta-data (wrapper): Additionally, the content of messages A through G may be analyzed and "coded" as corresponding to particular types of content. For example, the communication of message B relates to content subjects X, Y. Additionally, the advertisement of message E from merchant 2 relates to content L, M. In practice, the network may manage hundreds or thousands of categories of subject matter. The network may require that members, including users and merchants, enter or select category designations or key words in order to allow sorting and analysis of the message. Alternatively, a software agent could be established which parses the content of the message and infers its content. This would lessen the burden on the merchant and the users but may result in some misidentification or miscategorization of the digital content. In accordance with the present invention, privacy, preference, and content information is utilized in order to filter, accelerate, prioritize, or block particular types of content. Additionally, as has been discussed previously, location information may also be an important basis for transmitting, sorting, or prioritizing communications.”) paragraphs 0305-0306 (“xiv. Is Interruptive Flag: A binary value, i.e., "yes" or "no," indicating whether or not the presentation package can interrupt the normal flow of content on the device screen. Interruptive content may have the effect of replacing currently playing content on the screen before that content is finished.”) paragraph 0352). However, Brandenburg et al. does not explicitly disclose a method of determining

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at least one of whether the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation. Erb et al. discloses a method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation (paragraph 0026).

Therefore, it would have been obvious for a person of ordinary skill in the art at the time the invention was made to incorporate a method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation as taught by Erb et al. with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests as taught by Brandenburg et al. for the purpose of managing interrupts in a chat session.

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However, Brandenburg et al., as modified by Erb et al., does not explicitly disclose a system or method wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts.

Brown et al. discloses a system and method of controlling throughput of message requests in a messaging system wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts ((“A method, system and program for controlling and specifying throughput of message requests in a messaging system are provided. A "messaging session" preferably includes, but is not limited to, any combination of voice, graphical, video, and/or text messages, instant and/or delayed, transmitted between multiple users via a network. Messaging sessions may include use of chat rooms, instant messages, e-mail, IRC, conference calling and other network methods of providing a channel for users to communicate within. Further, messaging sessions may include communications such as voice, video, and text transmissions between multiple telephony devices. A "message request" may include, but is not limited to, a request for a user to join a chat session, a request for a user to participate in an instant messaging session, a request for a user to join a telephone

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conversation, and other requests for user to participate in a messaging session. In particular, a message request may be transmitted to a receiving user according to the receiving user's user identification (ID), screen name, telephone number, e-mail address, network location, or other identifier by which a message request may be routed to the intended receiving user.") paragraphs 0042-0043).

Brandenberg et al., as modified by Erb et al., discloses a prior art method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation, and a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests upon which the claimed invention can be seen as an improvement.

Brown et al. teaches a prior art comparable system and method of controlling throughput of message requests in a messaging system wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts.

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Thus, the manner of enhancing a particular device (system and method of controlling throughput of message requests in a messaging system wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts) was made part of the ordinary capabilities of one skilled in the art based upon the teaching of such improvement in Brown et al. Accordingly, one of ordinary skill in the art would have been capable of applying this known improvement technique in the same manner to the prior art method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation, and a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests of Brandenburg et al., as modified by Erb et al., and the results would have been predictable to one of ordinary skill in the art, namely, one skilled in the art would have readily recognized a system and method of prioritizing interrupts in a chat session.

However, Brandenburg et al., as modified by Erb et al. and Brown et al., does not explicitly teach a system and method wherein ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to a priority of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device.

Horvitz et al. (US 20050132014 A1) discloses statistical models and methods to support the personalization of applications and services via consideration of preference encodings of a community of users wherein ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to a cost (priority) of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device.

[Horvitz et al. (US 20050132014 A1), paragraph 0030] Turning to FIG. 4, a communications prototype interface 400 is illustrated in accordance with an aspect of the present invention. As noted above, Bestcom systems employ best means communication methods based upon preferences of contactees and contactors. A Bestcom prototype is depicted as the interface 400 and has been used to explore formal use of expected utility as well as control via the specification of high-level cost-benefit rules. Considering cost-benefit rules control, the

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communications system and interface 400 considers context, including time of day and day of week, as well as the call priority (which can be interpreted as the cost of deferring a call) of individuals and groups of people. This interface 400 shows a group manager, showing people, grouped by organization and activity, including such groups as meeting in one hour from now, people whom I called today, and so forth.

[Horvitz et al. (US 20050132014 A1), paragraph 0031] Proceeding to FIG. 5, a diagram 500 depicts how prioritized calls or messages are routed to a receiver of the messages over time and in view of the cost of interruption of the prioritized messages. The high-level cost-benefit version of the communications system allows calls to be routed through to users, even when they are in a mobile setting, but considering the current, dynamically changing cost of interruption, based on meetings, sensed observations (such as a microphone and conversation analysis system picking up conversation), and desktop activities (e.g., what is the user doing now), and settings, such as what is the user's Instant Messenger status set up to report (busy, away, etc.).

Brandenberg et al., as modified by Erb et al. and Brown et al., discloses a prior art method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation, and a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests; and controlling throughput of message requests in a messaging system wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts upon which the claimed invention can be seen as an improvement.

Horvitz et al. (US 20050132014 A1) teaches a prior art statistical models and methods to support the personalization of applications and services via consideration of preference encodings of a community of users wherein ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to a cost of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device.

Thus, the manner of enhancing a particular device (statistical models and methods to support the personalization of applications and services via consideration of preference encodings of a community of users wherein ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to a cost of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device) was made part of the ordinary capabilities of one skilled in the art based upon the teaching of such improvement in Horvitz et al. (US 20050132014 A1). Accordingly, one of ordinary skill in the art would have been capable of applying

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this known improvement technique in the same manner to the prior art method of call redirection zones for wireless communications wherein the interrupting contact has an interrupt priority ranking higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation and whether an interrupting conversation has a higher priority compared to the ongoing instant messaging conversation, and a system and method for managing interruptions to a network user wherein two users are communicating in a chat session, and an interrupt request is received with a user defined urgency level, and a method of blocking interrupt requests; and controlling throughput of message requests in a messaging system wherein receiving an interrupt request from an interrupting contact during an ongoing instant messaging conversation is between at least two contacts each using a communications device, wherein the interrupt request is received by at least one of the at least two contacts; and independent of a location of the communications device being used by each of the at least two contacts of Brandenburg et al., as modified by Erb et al. and Brown et al., and the results would have been predictable to one of ordinary skill in the art, namely, one skilled in the art would have readily recognized a system and method of prioritizing interrupts in a chat session.

Consider claim 44, as applied to claim 40. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a computer implemented method of claim 40, further comprising representing the contacts list as a graphical user interface including a table comprising one column for indicating an online status of each

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contact in the contacts lists and another column for an interrupt priority ranking of each contact (Horvitz et al. (US 20050132014 A1), paragraphs 0030-0031).

Consider claims 46 as applied to claim 40, and 51 as applied to claim 47.

Brandenberg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), further disclose a method comprising presenting a graphical user interface to each participant in an active instant messaging conversation, wherein the graphical user interface comprises an input means to enter or select a priority of the active instant messaging conversation (Horvitz et al. (US 20050132014 A1), paragraph 0007).

Claim 2 is rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Kirkland et al. (US 20050149622 A1).

Consider claim 2 and as applied to claim 1. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a method wherein a user must exceed a threshold value to make an interrupt request (“3.A.1.a.2.b. Sensitivities: Sensitivities are the second major structure of the wrapper. Sensitivities are expressed as context variable value conditions that are important to the content package. Matches between these value conditions and the current context trigger changes in content-related behaviors and computations.”) Brandenburg et al., paragraph 0334). However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a method wherein the content of the interrupting session comprises a priority ranking. Kirkland et al. discloses instant messaging priority filtering

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based on content and hierarchal schemes wherein message content holds a priority level (“Messages related to mowing the lawn are configured to have a priority level below a delivery threshold. In other words, the user may configure the instant messaging client to delay delivery of messages having a priority level below a certain threshold. The client software may be configured to maintain a database of delayed messages. Alternatively, the delayed messages may be appended to their appropriate queues, however, the user must manually view those queues or lower his or her priority threshold. Additionally, the message may be delivered, but display schemes such as using flashing messages to catch the user’s attention may be delayed. Joe may configure these low priority messages to be delivered at a later time when Joe has lowered the delivery threshold. Thus, Joe is able to reorder incoming messages according to content priority, and allow/disallow interrupts along the lines of those priorities.”) paragraph 0052).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate instant messaging priority filtering based on content and hierarchal schemes wherein message content holds a priority level as taught by Kirkland et al. with a method wherein a user must exceed a threshold value to make an interrupt request as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of managing interrupts.

Claims 6-7 and 20 are rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703

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A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Brewer et al. (US 5611040 A).

Consider claims 6, 20 and 54, as applied to claims 1, 16 and claim 54, respectively. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window (Brandenburg et al., paragraphs 0300-0301). However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a communication method comprising presenting a graphical user interface (GUI) representation of the interrupting conversation in a foreground of a display in response to interrupting the instant messaging conversation, and transferring a keyboard focus to a type-in box of the interrupting conversation in response to interrupting the instant messaging conversation. Brewer et al. discloses a system and method for activating double click applications with a single click comprising placing a window in the foreground and taking control of the mouse and keyboard ("Another instance where not having to click is a desirable goal is when, for example, as user desires to "drag and drop" an object into a window which currently is not under "focus". Focus is where a window is essentially placed in the foreground which, in a multitasking environment, refers to the process (program) that has control of the console and responds to commands issued from the mouse or keyboard.") column 1 lines 56-62).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a system and method for activating

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double click applications with a single click comprising placing a window in the foreground and taking control of the mouse and keyboard as taught by Brewer et al. with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of single instance application.

Consider claims 7 and 56, as applied to claims 1 and 52, respectively. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window. However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a communication method comprising presenting a graphical user interface (GUI) representation of the interrupting conversation to the background of a display in response to interrupting the instant messaging conversation. Brewer et al. discloses a system and method for activating double click applications with a single click comprising placing a window in the background ((“In the exemplary embodiment of the present invention, for the single click (i.e., button down then up) to be interpreted as a double click, the single click should occur within a preset double click time and range. As mentioned in the BACKGROUND, this time and range have default settings but can also be updated by a user via a mouse control window as shown in FIG. 2.”) column 3 lines 59-65).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a system and method for activating double click applications with a single click comprising placing a window in the background as taught by Brewer et al. with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of single instance application.

Claims 8 and 21 are rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Asokan (US 20050220079 A1).

Consider claims 8 and 21, and as applied to claims 1 and 16, respectively. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window. However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a messaging system comprising interrupts wherein other participants in a session are notified when someone else receives an interrupt request. Asokan discloses a system and method for suspending packet-switched sessions to a wireless terminal comprising a method wherein participants in a session are notified when a terminal has become unavailable (“In

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some embodiments of the present invention, the packet-switched session may be a push-to-talk session that has been initiated by a user of a GSM/GPRS wireless terminal and that was established by a push-to-talk server. In response to receiving a circuit-switched page, the wireless terminal via, for example, a push-to-talk application that is running on the terminal, notifies the push-to-talk server that the push-to-talk session is to be temporarily suspended. This notification may be forwarded, for example, as either a text message or an e-mail message that is transmitted over the SMS data bearer. The message may include, for example, an identifier associated with the cellular telephone (e.g., a push-to-talk client ID), identification of the reason the push-to-talk session is being suspended, the expected interval of the suspension, etc. If other participants in the push-to-talk session attempt to communicate with the wireless terminal over the push-to-talk session during the period when the wireless terminal has suspended the session, the push-to-talk server may notify those participants that the wireless terminal is temporarily unavailable. In other embodiments of the present invention, such notice may automatically be provided in response to the push-to-talk server receiving notification that a terminal has temporarily suspended participation in an on-going push-to-talk session. The notification to other participants in the push-to-talk session, if provided, may be generated and forwarded by the wireless terminal and/or the push-to-talk server.”) paragraph 0038).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate a system and method for suspending packet-switched sessions to a wireless terminal comprising a method wherein

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participants in a session are notified when a terminal has become unavailable as taught by Asokan with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of event notification.

Claim 9 is rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Balasuriya et al. (US 20050245240 A1).

Consider claim 9, and as applied to claim 1 above. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window. However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a system or method for managing interruptions to a network user wherein an interrupted instant messaging system resumes upon completion of the interrupt. Balasuriya et al. discloses an apparatus and method for storing media during interruption of a media session wherein a session can resume when an interruption ends ((“The disclosure provides an apparatus for and method of storing subsequent streaming media in a memory associated with a wireless communication device in response to receiving a communication request. For example, the disclosure provides for selectively storing at least one media of a multicast or unicast session in a local

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memory of a wireless communication device when a media streaming session is interrupted by an event, such as an incoming call. A user of the wireless communication device can resume playing the session from the local memory when the interruption ends.”) paragraph 0013).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate an apparatus and method for storing media during interruption of a media session wherein a session can resume when an interruption ends as taught by Balasuriya et al. with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of seamless collaboration.

Claims 11 and 12 are rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Horvitz et al. (US 2005084082 A1).

Consider claims 11 and 12, and as applied to claims 1 and 11, respectively. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window. However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US

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20050132014 A1), does not explicitly disclose a system or method for managing interruptions to a network user wherein interrupts can be selectively blocked or overridden. Horvitz et al. (US 2005084082 A1) discloses designs, interfaces, and policies for systems that enhance communication and minimize disruption by encoding preferences and situations wherein interruptability can be assigned and bypassed (read as overridden) (“Interruptability can be assigned to the various created groups. For example, after defining and activating a groups and assessing the priorities of callers, users can optionally assess their background or default interruptability (e.g., for a typical week). Default interruptability can represent the cost of taking phone calls at different times of day and days of the week in situations where there is no further statement about context, for example. Users can assert their background cost of interruption via a time-pattern palette as illustrated in FIG. 8. This palette allows users to sweep out regions of low, medium, and high cost of interruption over a seven-day period. Users can also indicate which periods of time should be set to block calls. At these times, only users assigned breakthrough privileges can get through to the user. Users typically are instructed that they can bypass this palette, thus assuming a background low cost of interruption for substantially all times.”) paragraph 0077 (“It is to be appreciated that the respective interfaces described herein can be provided in various other settings and context. For example, the interfaces can be GUIs associated with various applications, including a mail application, a calendar application and/or a web browser, models (e.g., as discussed herein), and/or a desktop development tool. The GUIs can provide a display with one or more display objects, including aspects as configurable icons,

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buttons, sliders, input boxes, selection options, menus, tabs and so forth with multiple configurable dimensions, shapes, colors, text, data and sounds to facilitate operations with the applications and/or models. In addition, the GUIs can include a plurality of other inputs and/or controls for adjusting and/or configuring one or more aspects of the present invention, as described in more detail below. As an example, the GUIs can provide for receiving user commands from a mouse, keyboard, speech input, web site, remote web service, pattern recognizer, face recognizer, and/or other device such as a camera or video input to effect or modify operations of the GUI.”) paragraph 0108).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate designs, interfaces, and policies for systems that enhance communication and minimize disruption by encoding preferences and situations wherein interruptability can be assigned and bypassed as taught by Horvitz et al. (US 2005084082 A1) with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of interactive collaboration.

Claims 13-14, and 50 are rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Savage et al. (US 20010009014 A1).

Consider claims 13-14, and as applied to claims 1 and 13, respectively, and 50, as applied to claim 47. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window in an instant messaging contacts list in a user's communications device (“3.F.3. Types of Arrangements: Users occasionally need to view homogenous collections of content objects formed on the basis of inherent category membership (e.g., an arrangement of all people). Traditional business-related functionality found on PDA's and desktops is designed around access to homogenous sets of information (e.g., contact lists or address books, message lists, to do lists, event lists or calendars). These are very useful for reference, but they do not satisfy the need people have to be aware of various kinds of information, especially when the set of information itself needs to adapt in response to changes in the present context. At any given time users have the need to bring together collections of content that are diverse. Using arrangements manages to satisfy both with the same interaction model.”) Brandenburg et al., paragraph 0547). However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a system or method for managing interruptions to network users wherein interrupt ranking is assigned to all users or ranking is performed by a predetermined order. Savage et al. discloses facilitating real-time, multi-point communications over the internet wherein a scheduler keeps track of and maintains the priority of each participant in each conference (“According to a specific embodiment, the scheduler keeps track of and

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maintains the priority of each participant in each conference. That is, the scheduler maintains the priority field in each atom for each participant. According to one embodiment, the priority field of a participant's atoms changes dynamically according to a fairness algorithm which monitors the amount of talking by a particular client. That is, the longer a client talks the lower its priority decays, while the less a client talks, the higher its priority remains. This gives high priority, for example to a client which interrupts another that has been talking for awhile. According to a more specific embodiment, hysteresis is also built into the system to allow a client to build its priority back.”) paragraph 0102).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate facilitating real-time, multi-point communications over the internet wherein a scheduler keeps track of and maintains the priority of each participant in each conference as taught by Savage et al. with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of availability rules.

Claim 15 is rejected under 35 U.S.C. 103(a) as being obvious over Brandenburg et al. (US 20030063072 A1) in further view of Erb et al. (US 20040142703 A1) in further view of Brown et al. (US 20030055908 A1) in further view of Horvitz et al. (US 20050132014 A1) and in further view of Suorsa et al. (US 20020156831 A1).

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Consider claim 15, and as applied to claim 1 above. Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), discloses a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window. However, Brandenburg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), does not explicitly disclose a system or method for managing interruptions to network users wherein Lightweight Directory Access Protocol (LDAP) decides the priority of interrupt requests. Suorsa et al. discloses automated provisioning of computing networks using a network database data model wherein Lightweight Directory Access Protocol (LDAP) verifies the access level of an agent ((“Thus, the present invention provides a technique whereby the validity of a message or a command transmitted to an agent may be verified. This verification, in accordance with an embodiment of the present invention may be accomplished using a lightweight directory access protocol (LDAP). Additionally, in accordance with an embodiment of the present invention, the access level of the agent may be verified by the system by way of a convenient communications protocol, such as LDAP or the like.”) paragraph 0065).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time the invention was made to incorporate automated provisioning of computing networks using a network database data model wherein Lightweight Directory Access Protocol (LDAP) verifies the access level of an agent as taught by with a system and method for managing interruptions to a network user wherein two users are communicating in a chat session comprising a messaging dialog window as taught by

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Brandenberg et al., as modified by Erb et al. and Horvitz et al. (US 20050132014 A1), for the purpose of managing interrupts.

(10) Response to Argument

Applicant argues that Brandenburg et al., as modified by Erb et al., Brown et al., and Horvitz et al., fails to teach a system and method of determining whether the interrupting contact has an interrupt priority ranking associated with the interrupting contact in a contacts list of the communications device receiving the interrupt request that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in the ongoing instant messaging conversation, as provided by claims 1-2, 5-16, 20-21, 40, 43-44, 46-47 and 50-52.

Examiner respectfully disagrees. Brandenburg et al. discloses a system and method wherein interrupts within a device which are associated with external communication are given a priority of operation over other applications which are running locally within any particular location-aware wireless communication appliance, resulting in a low latency in communication [paragraph 0852]. This is interpreted to read on the Claimed determining whether the interrupting contact has an interrupt priority ranking of the communications device that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in a conversation. Brandenburg et al. further discloses a system and method that defines traditional business-related functionality found on PDA's and desktops is designed around access to homogenous sets of information (e.g., contact lists or address books,

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message lists, to do lists, event lists or calendars) [paragraph 0547]. This is interpreted to read on the Claimed contact in a contacts list of a communications device. Erb et al. discloses a system and method wherein delivery of incoming calls directed to wireless communication devices can be controlled so that important meetings or other gatherings are not interrupted by incoming calls that do not take priority over the meetings or gatherings [paragraph 0017]. This is interpreted to read on the Claimed communications device receiving the interrupt request. It would have been obvious to one of ordinary skill in the art to combine these known methods.

Applicant argues that Brandenburg et al., as modified by Erb et al., Brown et al., and Horvitz et al., fails to teach a system and method of wherein an interrupting conversation has a higher priority compared to a priority of the ongoing instant messaging conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device, as provided by the embodiment of the present invention as recited in claims 1-2, 5-16, 20-21, 40, 43-44, 46-47 and 50-52.

Examiner respectfully disagrees. Brandenburg et al. discloses a system and method that utilizes trust data in order to sort, prioritize, or filter digital content so that messages from a highly trusted source are quickly brought to the member's attention while messages from less trusted sources are blocked, delayed, or otherwise minimized [paragraph 0524]. This is interpreted to read on the Claimed interrupting conversation having a higher priority compared to a priority of an ongoing conversation. Horvitz et al. discloses a system and method of routing prioritized messages in accordance with

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preferences, wherein collaborative filtering for software settings can be applied [paragraph 0032]. This is interpreted to read on the Claimed interrupting conversation having a higher priority compared to a priority of an ongoing conversation set by at least one of the at least two contacts participating in the ongoing instant messaging conversation in their communications device. Brandenburg et al. further discloses a system and method wherein interrupts within a device which are associated with external communication are given a priority of operation over other applications which are running locally within any particular location-aware wireless communication appliance, resulting in a low latency in communication [paragraph 0852]. This is interpreted to read on the Claimed determining whether the interrupting contact has an interrupt priority ranking of the communications device that is higher than, or at least as high as, an interrupt priority ranking of each of the at least two contacts participating in a conversation. Brandenburg et al. further discloses a system and method that defines traditional business-related functionality found on PDA's and desktops is designed around access to homogenous sets of information (e.g., contact lists or address books, message lists, to do lists, event lists or calendars) [paragraph 0547]. This is interpreted to read on the Claimed contact in a contacts list of a communications device. Erb et al. discloses a system and method wherein delivery of incoming calls directed to wireless communication devices can be controlled so that important meetings or other gatherings are not interrupted by incoming calls that do not take priority over the meetings or gatherings [paragraph 0017]. This is interpreted to read on the Claimed

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communications device receiving the interrupt request. It would have been obvious to one of ordinary skill in the art to combine these known methods.

(11) Related Proceeding(s) Appendix

No decision rendered by a court or the Board is identified by the examiner in the Related Appeals and Interferences section of this examiner's answer.

For the above reasons, it is believed that the rejections should be sustained.

This examiner's answer contains a new ground of rejection set forth in section **(9)** above. Accordingly, appellant must within **TWO MONTHS** from the date of this answer exercise one of the following two options to avoid *sua sponte* **dismissal of the appeal** as to the claims subject to the new ground of rejection:

(1) Reopen prosecution. Request that prosecution be reopened before the primary examiner by filing a reply under 37 CFR 1.111 with or without amendment, affidavit or other evidence. Any amendment, affidavit or other evidence must be relevant to the new grounds of rejection. A request that complies with 37 CFR 41.39(b)(1) will be entered and considered. Any request that prosecution be reopened will be treated as a request to withdraw the appeal.

(2) Maintain appeal. Request that the appeal be maintained by filing a reply brief as set forth in 37 CFR 41.41. Such a reply brief must address each new ground of rejection as set forth in 37 CFR 41.37(c)(1)(vii) and should be in compliance with the other requirements of 37 CFR 41.37(c). If a reply brief filed pursuant to 37 CFR 41.39(b)(2) is accompanied by any amendment, affidavit or other evidence, it shall be

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treated as a request that prosecution be reopened before the primary examiner under 37 CFR 41.39(b)(1).

Extensions of time under 37 CFR 1.136(a) are not applicable to the TWO MONTH time period set forth above. See 37 CFR 1.136(b) for extensions of time to reply for patent applications and 37 CFR 1.550(c) for extensions of time to reply for ex parte reexamination proceedings.

Respectfully submitted,

/Mark D Fearer/

A Technology Center Director or designee must personally approve the new ground(s) of rejection set forth in section (9) above by signing below:

Conferees:

/George C Neurauter, Jr./

Primary Examiner, Art Unit 2443

/Tonia LM Dollinger/

Supervisory Patent Examiner, Art Unit 2443

/Glenton B. Burgess/

Acting Group Director, TC 2400